

Senate Amendment 5156

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1 1 Amend Senate File 2392 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <DIVISION I
1 5 LIFE SETTLEMENT CONTRACTS
1 6 Section 1. NEW SECTION. 508G.1 SHORT TITLE.
1 7 This chapter may be cited as the "Life Settlements
1 8 Act".
1 9 Sec. 2. NEW SECTION. 508G.2 DEFINITIONS.
1 10 As used in this chapter, unless the context
1 11 otherwise requires:
1 12 1. "Advertisement" means any written, electronic,
1 13 or printed communication or any communication by means
1 14 of recorded telephone messages or transmitted on
1 15 radio, television, the internet, or similar
1 16 communications media, including film strips, motion
1 17 pictures, and videos, published, disseminated,
1 18 circulated, or placed before the public, directly or
1 19 indirectly, for the purpose of creating an interest in
1 20 or inducing a person to purchase or sell, assign,
1 21 devise, bequest, or transfer the death benefit or
1 22 ownership of a life insurance policy or an interest in
1 23 a life insurance policy pursuant to a life settlement
1 24 contract.
1 25 2. "Broker" means a person who, on behalf of an
1 26 owner and for a fee, commission or other valuable
1 27 consideration, offers or attempts to negotiate a life
1 28 settlement contract between an owner and a provider.
1 29 A broker represents only the owner and owes a
1 30 fiduciary duty to the owner to act according to the
1 31 owner's instructions, and in the best interest of the
1 32 owner, notwithstanding the manner in which the broker
1 33 is compensated. A broker does not include an
1 34 attorney, certified public accountant, or financial
1 35 planner retained in the type of practice customarily
1 36 performed in the attorney's, accountant's, or
1 37 planner's professional capacity to represent the owner
1 38 whose compensation is not paid directly or indirectly
1 39 by the provider or any other person, except the owner.
1 40 3. "Business of life settlement" means an activity
1 41 involved in but not limited to offering to enter into,
1 42 soliciting, negotiating, procuring, effectuating,
1 43 monitoring, or tracking, of life settlement contracts.
1 44 4. "Chronically ill" means any of the following:
1 45 a. Being unable to perform at least two activities
1 46 of daily living such as eating, toileting,
1 47 transferring, bathing, dressing, or continence.
1 48 b. Requiring substantial supervision to protect
1 49 the individual from threats to health and safety due
1 50 to severe cognitive impairment.
2 1 c. Having a level of disability similar to that
2 2 described in paragraph "a" as determined by the United
2 3 States secretary of health and human services.
2 4 5. "Commissioner" means the commissioner of
2 5 insurance.
2 6 6. a. "Financing entity" means a person who is an
2 7 underwriter, placement agent, lender, purchaser of
2 8 securities, purchaser of a policy or certificate from
2 9 a provider, credit enhancer, or any entity that has a
2 10 direct ownership in a policy or certificate that is
2 11 the subject of a life settlement contract, if all of
2 12 the following apply:
2 13 (1) The person's principal activity related to the
2 14 transaction is providing funds to effect the life
2 15 settlement contract or purchase of one or more
2 16 policies.
2 17 (2) The person has an agreement in writing with
2 18 one or more providers to finance the acquisition of
2 19 one or more life settlement contracts.
2 20 b. "Financing entity" does not include a
2 21 nonaccredited investor or purchaser.
2 22 7. "Financing transaction" means a transaction in
2 23 which a licensed provider obtains financing from a
2 24 financing entity including but not limited to any

2 25 secured or unsecured financing, any securitization
2 26 transaction, or any securities offering which either
2 27 is registered or exempt from registration under
2 28 federal and state securities law, including chapter
2 29 502.

2 30 8. "Fraudulent life settlement act" includes any
2 31 of the following:

2 32 a. An act or omission committed by a person who,
2 33 knowingly and with intent to defraud, for the purpose
2 34 of depriving another of property or for pecuniary
2 35 gain, commits, or permits its employees or its agents
2 36 to engage in, an act including but not limited to any
2 37 of the following:

2 38 (1) Presenting, causing to be presented, or
2 39 preparing with knowledge and belief that it will be
2 40 presented to or by a provider, premium finance lender,
2 41 broker, insurer, insurance producer, or any other
2 42 person, false material information, or concealing
2 43 material information, as part of, in support of, or
2 44 concerning a fact material to one or more of the
2 45 following:

2 46 (a) An application for the issuance of a life
2 47 settlement contract or insurance policy.

2 48 (b) The underwriting of a life settlement contract
2 49 or insurance policy.

2 50 (c) A claim for payment or benefit pursuant to a
3 1 life settlement contract or life insurance policy.

3 2 (d) Premiums paid on a life insurance policy.

3 3 (e) Payments and changes in ownership or
3 4 beneficiary made in accordance with the terms of a
3 5 life settlement contract or life insurance policy.

3 6 (f) The reinstatement or conversion of a life
3 7 insurance policy.

3 8 (g) In the solicitation, offer to enter into, or
3 9 effectuation of a life settlement contract or life
3 10 insurance policy.

3 11 (h) The issuance of written evidence of a life
3 12 settlement contract or life insurance policy.

3 13 (i) Any application for or the existence of, or
3 14 any payments related to, a loan secured directly or
3 15 indirectly by any interest in a life insurance policy.

3 16 (j) Entering into any practice or plan which
3 17 involves a stranger-originated life insurance policy.

3 18 (2) Failing to disclose to the insurer where the
3 19 request for such disclosure has been asked for by the
3 20 insurer that the prospective insured has undergone a
3 21 life expectancy evaluation by any person or entity
3 22 other than the insurer or its authorized
3 23 representatives in connection with the issuance of the
3 24 life insurance policy.

3 25 (3) Employing any device, scheme, or artifice to
3 26 defraud in the business of life settlements.

3 27 (4) In the solicitation, application or issuance
3 28 of a life insurance policy, employing any device,
3 29 scheme or artifice in violation of state insurable
3 30 interest laws.

3 31 b. In the furtherance of a fraud, or to prevent
3 32 the detection of a fraud, a person commits or permits
3 33 its employee or its agent to do any of the following:

3 34 (1) Remove, conceal, alter, destroy, or sequester
3 35 from the commissioner the assets or records of a
3 36 licensee or other person engaged in the business of
3 37 life settlements.

3 38 (2) Misrepresent or conceal the financial
3 39 condition of a licensee, financing entity, insurer, or
3 40 other person.

3 41 (3) Transact the business of life settlements in
3 42 violation of laws requiring a license, certificate of
3 43 authority, or other legal authority for the
3 44 transaction of the business of life settlements.

3 45 (4) File with the commissioner or the chief
3 46 insurance regulatory official of another jurisdiction
3 47 a document containing false information or otherwise
3 48 concealing information about a material fact from the
3 49 commissioner.

3 50 (5) Engage in embezzlement, theft,
4 1 misappropriation, or conversion of moneys, funds,
4 2 premiums, credits, or other property of a provider,
4 3 broker insurer, insured, owner, or any other person
4 4 engaged in the business of life settlement contracts
4 5 or insurance policy.

4 6 (6) Knowingly and with intent to defraud, enter
4 7 into, broker, or otherwise deal in a life settlement
4 8 contract, the subject of which is a life insurance
4 9 policy that was obtained by presenting false
4 10 information concerning any fact material to the life
4 11 insurance policy or by concealing, for the purpose of
4 12 misleading another, information concerning any fact
4 13 material to the life insurance policy, where the owner
4 14 or the owner's agent intended to defraud the life
4 15 insurance policy's issuer.

4 16 (7) Attempt to commit, assist, aid, or abet in the
4 17 commission of, or conspiracy to commit an act or
4 18 omission specified in this subsection.

4 19 (8) Misrepresent the state of residence of an
4 20 owner to be a state or jurisdiction that does not have
4 21 a law substantially similar to this chapter for the
4 22 purpose of evading or avoiding the provisions of this
4 23 chapter.

4 24 9. "Insured" means the person covered under the
4 25 life insurance policy being considered for sale in a
4 26 life settlement contract.

4 27 10. "Life expectancy" means the arithmetic mean of
4 28 the number of months the insured under the life
4 29 insurance policy to be settled can be expected to live
4 30 as determined by a life expectancy company considering
4 31 medical records and appropriate experiential data.

4 32 11. "Life insurance policy" means an individual or
4 33 group policy, group certificate, contract, or
4 34 arrangement of life insurance owned by a resident of
4 35 this state, regardless of whether delivered or issued
4 36 for delivery in this state.

4 37 12. "Life insurance producer" or "producer" means
4 38 any person licensed in this state as a resident or
4 39 nonresident insurance producer who has received
4 40 qualification or authority for life insurance coverage
4 41 or a life line of coverage pursuant to title XIII,
4 42 subtitle I of the Code.

4 43 13. a. "Life settlement contract" means a written
4 44 agreement entered into between a provider and an
4 45 owner, establishing the terms under which compensation
4 46 or anything of value will be paid, which compensation
4 47 or thing of value is less than the expected death
4 48 benefit of the life insurance policy or life insurance
4 49 certificate, in return for the owner's assignment,
4 50 transfer, sale, devise, or bequest of the death
5 1 benefit or any portion of a life insurance policy or
5 2 life insurance certificate for compensation, provided,
5 3 however, that the minimum value for a life settlement
5 4 contract shall be greater than a cash surrender value
5 5 or accelerated death benefit available at the time of
5 6 an application for a life settlement contract.

5 7 b. "Life settlement contract" also includes the
5 8 transfer for compensation or value of ownership or
5 9 beneficial interest in a trust or other entity that
5 10 owns such policy if the trust or other entity was
5 11 formed or availed of for the principal purpose of
5 12 acquiring one or more life insurance contracts, which
5 13 life insurance contract insures the life of a person
5 14 residing in this state.

5 15 c. "Life settlement contract" also includes any of
5 16 the following:

5 17 (1) A written agreement for a loan or other
5 18 lending transaction, secured primarily by an
5 19 individual or group life insurance policy.

5 20 (2) A premium finance loan made for a life
5 21 insurance policy on or before the date of issuance of
5 22 the life insurance policy where any of the following
5 23 applies:

5 24 (a) The loan proceeds are not used solely to pay
5 25 premiums for the life insurance policy and any costs
5 26 or expenses incurred by the lender or the borrower in
5 27 connection with the financing.

5 28 (b) The owner receives on the date of the premium
5 29 finance loan a guarantee of the future life settlement
5 30 value of the life insurance policy.

5 31 (c) The owner agrees on the date of the premium
5 32 finance loan to sell the life insurance policy or any
5 33 portion of its death benefit on any date following the
5 34 issuance of the life insurance policy.

5 35 d. "Life settlement contract" does not include any
5 36 of the following:

5 37 (1) A life insurance policy loan by a life
5 38 insurance company pursuant to the terms of the life
5 39 insurance policy or accelerated death provisions
5 40 contained in the life insurance policy, whether issued
5 41 with the original life insurance policy or as a rider.
5 42 (2) A premium finance loan or any loan made by a
5 43 bank or other licensed financial institution, provided
5 44 that a default on such loan or a transfer of the life
5 45 insurance policy in connection with such default is
5 46 pursuant to an agreement or understanding with any
5 47 other person for the purpose of evading regulation
5 48 under this chapter.
5 49 (3) A collateral assignment of a life insurance
5 50 policy by an owner.
6 1 (4) A loan made by a lender, provided such loan is
6 2 not described in paragraph "c", and is not otherwise a
6 3 life settlement contract.
6 4 (5) An agreement where all the parties (a) are
6 5 closely related to the insured by blood or law or (b)
6 6 have a lawful substantial economic interest in the
6 7 continued life, health, and bodily safety of the
6 8 person insured, or are trusts established primarily
6 9 for the benefit of such parties.
6 10 (6) Any designation, consent, or agreement by an
6 11 insured who is an employee of an employer in
6 12 connection with the purchase by the employer, or trust
6 13 established by the employer, of life insurance on the
6 14 life of the employee.
6 15 (7) A bona fide business succession planning
6 16 arrangement that is between any of the following:
6 17 (a) One or more shareholders in a corporation or
6 18 between a corporation and one or more of its
6 19 shareholders or one or more trusts established by its
6 20 shareholders.
6 21 (b) One or more partners in a partnership or
6 22 between a partnership and one or more of its partners
6 23 or one or more trusts established by its partners.
6 24 (c) One or more members in a limited liability
6 25 company or between a limited liability company and one
6 26 or more of its members or one or more trusts
6 27 established by its members.
6 28 (8) An agreement entered into by a service
6 29 recipient, or a trust established by the service
6 30 recipient, and a service provider, or a trust
6 31 established by the service provider, who performs
6 32 significant services for the service recipient's trade
6 33 or business.
6 34 (9) Any other contract, transaction, or
6 35 arrangement that qualifies as a life settlement
6 36 contract but that the commissioner determines is not
6 37 of the type intended to be regulated by this chapter.
6 38 14. "Net death benefit" means the amount of the
6 39 life insurance policy or life insurance certificate to
6 40 be settled less any outstanding debts or liens.
6 41 15. "Owner" means the owner of a life insurance
6 42 policy or a life insurance certificate holder under a
6 43 group policy, with or without a terminal illness, who
6 44 enters or seeks to enter into a life settlement
6 45 contract.
6 46 a. "Owner" includes but is not limited to an owner
6 47 of a life insurance policy or a life insurance
6 48 certificate holder under a group policy that insures
6 49 the life of an individual with a terminal or chronic
6 50 illness or condition.
7 1 b. "Owner" does not include any of the following:
7 2 (1) A provider or other licensee under this
7 3 chapter.
7 4 (2) A qualified institutional buyer as defined in
7 5 17 C.F.R. } 230.144 promulgated by the United States
7 6 securities and exchange commission under the federal
7 7 Securities Act of 1933, as amended, 15 U.S.C. } 77a et
7 8 seq.
7 9 (3) A financing entity.
7 10 (4) A special purpose entity.
7 11 (5) A related provider trust.
7 12 16. "Premium finance loan" means a loan made
7 13 primarily for the purposes of making premium payments
7 14 on a life insurance policy, which loan is secured by
7 15 an interest in such life insurance policy.
7 16 17. a. "Provider" means a person, other than an
7 17 owner, who enters into or effectuates a life

7 18 settlement contract with an owner.
7 19 b. "Provider" does not include any of the
7 20 following:
7 21 (1) A bank, savings bank, savings and loan
7 22 association, or credit union.
7 23 (2) A licensed lending institution or creditor or
7 24 secured party pursuant to a premium finance loan
7 25 agreement which takes an assignment of a life
7 26 insurance policy or certificate issued pursuant to a
7 27 group life insurance policy as collateral for a loan.
7 28 (3) The insurer of a life insurance policy or
7 29 rider to the extent of providing accelerated death
7 30 benefits, riders, or cash surrender value.
7 31 (4) A natural person who enters into or
7 32 effectuates not more than one agreement in a calendar
7 33 year for the transfer of a life insurance policy or
7 34 certificate issued pursuant to a group life insurance
7 35 policy, for compensation or anything of value less
7 36 than the expected death benefit payable under the
7 37 policy.
7 38 (5) A purchaser.
7 39 (6) An authorized or eligible insurer that
7 40 provides stop loss coverage to a provider, purchaser,
7 41 financing entity, special purpose entity, or related
7 42 provider trust.
7 43 (7) A financing entity.
7 44 (8) A special purpose entity.
7 45 (9) A related provider trust.
7 46 (10) A broker.
7 47 (11) An accredited investor or qualified
7 48 institutional buyer as defined, respectively, in 17
7 49 C.F.R. } 230.501(a) or 17 C.F.R. } 230.144A as
7 50 promulgated by the United States securities and
8 1 exchange commission under the federal Securities Act
8 2 of 1933, as amended, 15 U.S.C. } 77a et seq., who
8 3 purchases a life settlement policy from a provider.
8 4 18. "Purchased policy" means a policy or group
8 5 certificate that has been acquired by a provider
8 6 pursuant to a life settlement contract.
8 7 19. "Purchaser" means a person who pays
8 8 compensation or anything of value as consideration for
8 9 a beneficial interest in a trust which is vested with,
8 10 or for the assignment, transfer or sale of, an
8 11 ownership or other interest in a life insurance policy
8 12 or a certificate issued pursuant to a group life
8 13 insurance policy which has been the subject of a life
8 14 settlement contract.
8 15 20. a. "Related provider trust" means a titling
8 16 trust or other trust established by a licensed
8 17 provider or a financing entity for the sole purpose of
8 18 holding the ownership or beneficial interest in
8 19 purchased policies in connection with a financing
8 20 transaction.
8 21 b. In order to qualify as a related provider
8 22 trust, the trust must have a written agreement with
8 23 the licensed provider under which the licensed
8 24 provider is responsible for ensuring compliance with
8 25 all statutory and regulatory requirements and under
8 26 which the trust agrees to make all records and files
8 27 relating to life settlement transactions available to
8 28 the commissioner as if those records and files were
8 29 maintained directly by the licensed provider.
8 30 21. "Settled policy" means a life insurance policy
8 31 or life insurance certificate that has been acquired
8 32 by a provider pursuant to a life settlement contract.
8 33 22. "Special purpose entity" means a corporation,
8 34 partnership, trust, limited liability company, or
8 35 other legal entity formed solely to provide, either
8 36 directly or indirectly, access to institutional
8 37 capital markets as follows:
8 38 a. For a financing entity or provider.
8 39 b. In connection with a transaction in which the
8 40 securities in the special purpose entity are acquired
8 41 by the owner or by a qualified institutional buyer as
8 42 defined in 17 C.F.R. } 230.144 promulgated by the
8 43 United States securities and exchange commission under
8 44 the federal Securities Act of 1933, as amended, 15
8 45 U.S.C. } 77a et seq.
8 46 c. In connection with a transaction in which the
8 47 securities pay a fixed rate of return commensurate
8 48 with established asset-backed institutional capital

8 49 markets.

8 50 23. "Stranger-originated life insurance" means a
9 1 practice or plan to initiate a life insurance policy
9 2 for the benefit of a third-party investor who, at the
9 3 time of policy origination, has no insurable interest
9 4 in the insured. Stranger-originated life insurance
9 5 practices include but are not limited to cases in
9 6 which life insurance is purchased with resources or
9 7 guarantees from or through a person, or entity, who at
9 8 the time of inception, there is an arrangement or
9 9 agreement, whether verbal or written, to directly or
9 10 indirectly transfer the ownership of the policy or the
9 11 policy benefits to a third party. Trusts that are
9 12 created to give the appearance of insurable interest
9 13 and are used to initiate stranger-originated life
9 14 insurance arrangements do not include those practices
9 15 as set forth in subsection 13, paragraph "b".

9 16 24. "Terminally ill" means having an illness or
9 17 sickness that can reasonably be expected to result in
9 18 death in twenty-four months or less.

9 19 Sec. 3. NEW SECTION. 508G.3 LICENSING
9 20 REQUIREMENTS.

9 21 1. A person, wherever located, shall not act as a
9 22 provider or broker with an owner or multiple owners
9 23 residing in this state, without first having obtained
9 24 a license from the commissioner. If there is more
9 25 than one owner on a single policy and the owners are
9 26 residents of different states, the life settlement
9 27 contract shall be governed by the law of the state in
9 28 which the owner having the largest percentage
9 29 ownership resides or, if the owners hold equal
9 30 ownership, the state of residence of one owner agreed
9 31 upon in writing by all owners.

9 32 2. An application for a provider or broker license
9 33 shall be made to the commissioner by the applicant on
9 34 a form prescribed by the commissioner, and the
9 35 application shall be accompanied by a fee in an amount
9 36 established by the commissioner, provided, however,
9 37 that a license or renewal fee for a provider license
9 38 shall be reasonable and that a license or renewal fee
9 39 for a broker license shall not exceed the fee
9 40 established for an insurance producer.

9 41 3. A life insurance producer who has been duly
9 42 licensed as a resident insurance producer with a life
9 43 line of authority in this state or in the life
9 44 insurance producer's home state for at least one year
9 45 and is licensed as a nonresident producer in this
9 46 state shall be deemed to meet the licensing
9 47 requirements of this section and shall be permitted to
9 48 operate as a broker.

9 49 4. Not later than thirty days from the first day
9 50 of operating as a broker, the life insurance producer
10 1 shall notify the commissioner that the life insurance
10 2 producer is acting as a broker on a form prescribed by
10 3 the commissioner, and shall pay an applicable fee
10 4 established by rules adopted by the commissioner.
10 5 Notification shall include an acknowledgment by the
10 6 life insurance producer that the life insurance
10 7 producer will operate as a broker in accordance with
10 8 this chapter.

10 9 5. The insurer that issued the life insurance
10 10 policy that is the subject of a life settlement
10 11 contract shall not be responsible for any act or
10 12 omission of a broker, provider, or purchaser arising
10 13 out of or in connection with the life settlement
10 14 transaction, unless the insurer receives compensation
10 15 for the placement of a life settlement contract from
10 16 the broker, provider, or purchaser in connection with
10 17 the life settlement contract.

10 18 6. A person licensed as an attorney, certified
10 19 public accountant, or financial planner accredited by
10 20 a nationally recognized accreditation agency, who is
10 21 retained to represent the owner, whose compensation is
10 22 not paid directly or indirectly by the provider or
10 23 purchaser, may negotiate life settlement contracts on
10 24 behalf of the owner without having to obtain a license
10 25 as a broker.

10 26 7. The term of a provider license shall be equal
10 27 to that of a domestic stock life insurance company and
10 28 the term of a broker license shall be equal to that of
10 29 an insurance producer license. A license requiring

10 30 periodic renewal may be renewed on its anniversary
10 31 date upon payment of the periodic renewal fee as
10 32 specified in subsection 2. A failure to pay a fee on
10 33 or before the renewal date shall result in revocation
10 34 of the license.

10 35 8. The applicant shall provide such information as
10 36 the commissioner may require on forms prepared by the
10 37 commissioner. The commissioner may, at any time,
10 38 require such applicant to fully disclose the identity
10 39 of its stockholders except for a stockholder owning
10 40 fewer than ten percent of the shares of an applicant
10 41 whose shares are publicly traded; partners; officers;
10 42 and employees. The commissioner may, in the exercise
10 43 of the commissioner's sole discretion, refuse to issue
10 44 such a license in the name of any person if not
10 45 satisfied that any officer, employee, stockholder, or
10 46 partner of the applicant who may materially influence
10 47 the applicant's conduct meets the standards of this
10 48 chapter.

10 49 9. A license issued to a partnership, corporation,
10 50 limited liability company, or other entity authorizes
11 1 a person who is a member, officer, or designated
11 2 employee to act as a licensee under the license, if
11 3 the person is named in the application or a supplement
11 4 to the application.

11 5 10. Upon the filing of an application and the
11 6 payment of the license fee, the commissioner shall
11 7 make an investigation of each applicant and may issue
11 8 a license if the commissioner finds that all of the
11 9 following apply:

11 10 a. If the applicant is a provider, the applicant
11 11 has provided a detailed plan of operation.

11 12 b. The applicant is competent and trustworthy and
11 13 intends to transact its business in good faith.

11 14 c. The applicant has a good business reputation
11 15 and has had experience, training, or education so as
11 16 to be qualified in the business for which the license
11 17 is applied.

11 18 d. If the applicant is a legal entity, is formed
11 19 or organized pursuant to the laws of this state or is
11 20 a foreign legal entity authorized to transact business
11 21 in this state, or provides a certificate of good
11 22 standing from the state of its domicile.

11 23 e. The applicant has provided to the commissioner
11 24 an antifraud plan that meets the requirements of
11 25 section 508G.14 and includes all of the following:

11 26 (1) A description of the procedures for detecting
11 27 and investigating a possible fraudulent act and
11 28 procedure for resolving material inconsistencies
11 29 between a medical record and insurance applications.

11 30 (2) A description of the procedures for reporting
11 31 a fraudulent insurance act to the commissioner.

11 32 (3) A description of the plan for antifraud
11 33 education and training of its underwriters and other
11 34 personnel.

11 35 (4) A written description or chart outlining the
11 36 arrangement of the antifraud personnel who are
11 37 responsible for the investigation and reporting of a
11 38 possible fraudulent insurance act and investigating
11 39 any unresolved material inconsistency between a
11 40 medical record and the insurance application.

11 41 11. The commissioner shall not issue a license to
11 42 a nonresident applicant, unless a written designation
11 43 of an agent for service of process is filed and
11 44 maintained with the commissioner or unless the
11 45 applicant has filed with the commissioner the
11 46 applicant's written irrevocable consent that any
11 47 action against the applicant may be commenced against
11 48 the applicant by service of process on the
11 49 commissioner.

11 50 12. A licensee shall file with the commissioner on
12 1 or before the first day of March of each year an
12 2 annual statement containing such information as the
12 3 commissioner by rule may prescribe.

12 4 13. A provider shall not use any person to perform
12 5 the functions of a broker unless the person holds a
12 6 license as a broker as provided in this section.

12 7 14. A broker shall not use a person to perform the
12 8 functions of a provider unless such person holds a
12 9 license as a provider as provided in this section.

12 10 15. A provider or broker shall provide to the

12 11 commissioner new or revised information about an
12 12 officer, ten percent or more stockholders, a partner,
12 13 director, members, or a designated employee within
12 14 thirty days of a change.

12 15 16. An individual licensed as a broker shall
12 16 complete on a biennial basis fifteen hours of training
12 17 related to a life settlement or a life settlement
12 18 transaction, as required by the commissioner.
12 19 However, a life insurance producer who is operating as
12 20 a broker pursuant to this section shall not be subject
12 21 to the requirements of this subsection. A person
12 22 failing to meet the requirements of this subsection
12 23 shall be subject to the penalties imposed by the
12 24 commissioner.

12 25 Sec. 4. NEW SECTION. 508G.4 LICENSE SUSPENSION,
12 26 REVOCATION, OR REFUSAL TO RENEW.

12 27 1. The commissioner may suspend, revoke, or refuse
12 28 to renew the license of a licensee if the commissioner
12 29 finds any of the following:

12 30 a. There was any material misrepresentation in the
12 31 application for the license.

12 32 b. The licensee or any officer, partner, member,
12 33 or director has been guilty of a fraudulent or
12 34 dishonest practice, is subject to a final agency
12 35 action under chapter 17A, or is otherwise shown to be
12 36 untrustworthy or incompetent to act as a licensee.

12 37 c. The provider demonstrates a pattern of
12 38 unreasonably withholding payments to policy owners.

12 39 d. The licensee no longer meets the requirements
12 40 for initial licensure.

12 41 e. The licensee or any officer, partner, member,
12 42 or director has been convicted of a felony, or of any
12 43 misdemeanor of which criminal fraud or moral turpitude
12 44 is an element; or the licensee has pleaded guilty or
12 45 nolo contendere with respect to any felony or any
12 46 misdemeanor of which criminal fraud or moral turpitude
12 47 is an element, regardless of whether a judgment of
12 48 conviction has been entered by the court.

12 49 f. The provider has entered into a life settlement
12 50 contract that has not been approved pursuant to this
13 1 chapter.

13 2 g. The provider has failed to honor contractual
13 3 obligations set out in a life settlement contract.

13 4 h. The provider has assigned, transferred, or
13 5 pledged a settled policy to a person other than a
13 6 provider licensed in this state; a purchaser; an
13 7 accredited investor or qualified institutional buyer
13 8 as defined, respectively, in 17 C.F.R. } 230.501(a) or
13 9 17 C.F.R. } 230.144A as promulgated by the United
13 10 States securities and exchange commission under the
13 11 federal Securities Act of 1933, as amended, 15 U.S.C.
13 12 } 77a et seq.; a financing entity; a special purpose
13 13 entity; or a related provider trust.

13 14 i. The licensee or any officer, partner, member,
13 15 or key management personnel has violated any of the
13 16 provisions of this chapter.

13 17 2. Before the commissioner denies a license
13 18 application or suspends, revokes, or refuses to renew
13 19 the license of any licensee under this chapter, the
13 20 commissioner shall conduct a contested case proceeding
13 21 in accordance with chapter 17A.

13 22 Sec. 5. NEW SECTION. 508G.5 CONTRACT
13 23 REQUIREMENTS.

13 24 1. A person shall not use any form of life
13 25 settlement contract in this state unless it has been
13 26 filed with and approved, if required, by the
13 27 commissioner in a manner that conforms with the filing
13 28 procedures and any time restrictions or deeming
13 29 provisions, if any, for life insurance forms,
13 30 policies, and contracts.

13 31 2. An insurer shall not, as a condition of
13 32 responding to a request for verification of coverage
13 33 or in connection with the transfer of a life insurance
13 34 policy pursuant to a life settlement contract, require
13 35 that the owner, insured provider, or broker sign any
13 36 form, disclosure, consent, waiver, or acknowledgment
13 37 that has not been expressly approved by the
13 38 commissioner for use in connection with life
13 39 settlement contracts in this state.

13 40 3. A person shall not use a life settlement
13 41 contract form or provide to an owner a disclosure

13 42 statement form in this state unless first filed with
13 43 and approved by the commissioner. The commissioner
13 44 shall disapprove a life settlement contract form or
13 45 disclosure statement form if, in the commissioner's
13 46 opinion, the contract or provisions contained in such
13 47 form fail to meet the requirements of sections 508G.8,
13 48 508G.9, or 508G.11, or are unreasonable, contrary to
13 49 the interests of the public, or otherwise misleading
13 50 or unfair to the owner. At the commissioner's
14 1 discretion, the commissioner may require the
14 2 submission of advertising material.

14 3 Sec. 6. NEW SECTION. 508G.6 REPORTING
14 4 REQUIREMENTS AND PRIVACY.

14 5 1. For any life insurance policy settled within
14 6 five years of policy issuance, each provider shall
14 7 file with the commissioner on or before March 1 of
14 8 each year an annual statement containing such
14 9 information as the commissioner may prescribe by rule.
14 10 In addition to any other requirements, the annual
14 11 statement shall specify the total number, aggregate
14 12 face amount, and life settlement proceeds of life
14 13 insurance policies settled during the immediately
14 14 preceding calendar year, together with a breakdown of
14 15 the information by policy issue year for each insurer.
14 16 The annual statement shall also include the names of
14 17 the insurance companies whose policies have been
14 18 settled and the brokers that have settled the
14 19 policies.

14 20 a. Such information shall be limited to only those
14 21 transactions where the insured is a resident of this
14 22 state and shall not include individual transaction
14 23 data regarding the business of life settlements or
14 24 information that there is a reasonable basis to
14 25 believe could be used to identify the owner or the
14 26 insured.

14 27 b. A provider that willfully fails to file an
14 28 annual statement as required in this section, or
14 29 willfully fails to reply within thirty days to a
14 30 written inquiry by the commissioner in connection to
14 31 the filing of the annual statement, shall, in addition
14 32 to other penalties provided by this chapter, be
14 33 subject to a civil penalty of up to two hundred fifty
14 34 dollars per day of delay, not to exceed twenty-five
14 35 thousand dollars in the aggregate, for each such
14 36 failure.

14 37 2. A provider, broker, insurer, insurance
14 38 producer, information bureau, rating agency, or
14 39 company, or any other person with actual knowledge of
14 40 an insured's identity, shall not disclose the identity
14 41 of an insured or information that there is a
14 42 reasonable basis to believe could be used to identify
14 43 the insured or the insured's financial or medical
14 44 information to any other person unless the disclosure
14 45 is any of the following:

14 46 a. Necessary to effect a life settlement contract
14 47 between the owner and a provider and the owner and
14 48 insured have provided prior written consent to the
14 49 disclosure.

14 50 b. Necessary to effectuate the sale of life
15 1 settlement contracts, or interest in a life insurance
15 2 contract as an investment, provided the sale is
15 3 conducted in accordance with applicable federal
15 4 securities law, including chapter 502, and provided
15 5 further that the owner and the insured have both
15 6 provided prior written consent to the disclosure.

15 7 c. Is provided in response to an investigation or
15 8 examination by the commissioner or any other
15 9 governmental officer or agency or pursuant to the
15 10 requirements of section 508G.13.

15 11 d. Is a term or condition to the transfer of a
15 12 policy by one provider to another provider, in which
15 13 case the receiving provider shall be required to
15 14 otherwise comply with the confidentiality requirements
15 15 of this subsection.

15 16 e. (1) Is necessary to allow the provider or
15 17 broker or its authorized representatives to make a
15 18 contact for the purpose of determining health status.
15 19 A provider or broker shall require its authorized
15 20 representative to agree in writing to adhere to the
15 21 privacy provisions of this chapter.

15 22 (2) An authorized representative does not include

15 23 any person who has or may have any financial interest
15 24 in the life settlement contract other than a provider,
15 25 licensed broker, financing entity, related provider
15 26 trust, or special purpose entity.
15 27 f. Is required to purchase stop loss coverage.
15 28 3. Nonpublic personal information solicited or
15 29 obtained in connection with a proposed or actual life
15 30 settlement contract shall be subject to the provisions
15 31 applicable to financial institutions under the federal
15 32 Gramm Leach Bliley Act, 15 U.S.C. } 6801 et seq., and
15 33 all other federal and state laws relating to
15 34 confidentiality of nonpublic personal information.
15 35 Sec. 7. NEW SECTION. 508G.7 EXAMINATION.
15 36 1. The commissioner may, when the commissioner
15 37 deems it reasonably necessary to protect the interests
15 38 of the public, examine the business and affairs of any
15 39 licensee or applicant for a license. The commissioner
15 40 may order any licensee or applicant to produce any
15 41 records, books, files, or other information reasonably
15 42 necessary to ascertain whether such licensee or
15 43 applicant is acting or has acted in violation of the
15 44 law or otherwise contrary to the interests of the
15 45 public. The expenses incurred in conducting any
15 46 examination shall be paid by the licensee or
15 47 applicant.
15 48 2. In lieu of an examination under this section of
15 49 any foreign or alien licensee licensed in this state,
15 50 the commissioner may, at the commissioner's
16 1 discretion, accept an examination report on the
16 2 licensee as prepared by the commissioner for the
16 3 licensee's state of domicile or port-of-entry state.
16 4 3. Notwithstanding chapter 22, the name and
16 5 individual identification data for each owner and
16 6 insured shall be considered private and confidential
16 7 information and shall not be disclosed by the
16 8 commissioner unless required by law.
16 9 4. The records of all consummated transactions and
16 10 life settlement contracts shall be maintained by the
16 11 provider for three years after the death of the
16 12 insured and shall be available to the commissioner for
16 13 inspection during reasonable business hours.
16 14 5. For the conduct of examinations, all of the
16 15 following shall apply:
16 16 a. Upon determining that an examination is
16 17 appropriate, the commissioner shall issue an
16 18 examination warrant appointing one or more examiners
16 19 to perform the examination and instructing them as to
16 20 the scope of the examination. In conducting the
16 21 examination, an examiner shall use methods common to
16 22 the examination of any life settlement licensee and
16 23 may use those guidelines and procedures set forth in
16 24 an examiners' handbook adopted by a national
16 25 organization as required by the commissioner.
16 26 b. A licensee or other person from whom
16 27 information is sought, its officers, directors, or
16 28 agents shall provide to an examiner timely,
16 29 convenient, and free access at all reasonable hours at
16 30 its office to all books, records, accounts, papers,
16 31 documents, assets, and computer or other recordings
16 32 relating to the property, assets, business, and
16 33 affairs of the licensee or other person being
16 34 examined. The officer, director, employee, or agent
16 35 of the licensee or other person shall facilitate the
16 36 examination and aid in the examination so far as it is
16 37 in the person's power to do so. The refusal of a
16 38 licensee, by an officer, director, employee, or agent,
16 39 to submit to examination or to comply with any
16 40 reasonable written request of the commissioner shall
16 41 be grounds for suspension or refusal of, or nonrenewal
16 42 of any license or authority held by the licensee to
16 43 engage in the business of life settlements or other
16 44 business subject to the commissioner's jurisdiction.
16 45 Any proceedings for suspension, revocation, or refusal
16 46 of a license or authority shall be conducted pursuant
16 47 to chapter 17A.
16 48 c. The commissioner may issue subpoenas,
16 49 administer oaths, and examine under oath any person as
16 50 to any matter pertinent to the examination. Upon the
17 1 failure or refusal of a person to obey a subpoena, the
17 2 commissioner may petition a court of competent
17 3 jurisdiction, and upon proper showing, the court may

17 4 enter an order compelling the witness to appear and
17 5 testify or produce documentary evidence.
17 6 d. When making an examination under this chapter,
17 7 the commissioner may retain one or more attorneys,
17 8 appraisers, independent actuaries, independent
17 9 certified public accountants, or other professionals
17 10 and specialists as examiners, the reasonable cost of
17 11 which shall be borne by the licensee that is the
17 12 subject of the examination.

17 13 e. This chapter shall not be construed to limit
17 14 the commissioner's authority to terminate or suspend
17 15 an examination in order to pursue other legal or
17 16 administrative action pursuant to the insurance laws
17 17 of this state. Findings of fact and conclusions made
17 18 pursuant to any examination shall be prima facie
17 19 evidence in any legal or regulatory action.

17 20 f. This chapter shall not be construed to limit
17 21 the commissioner's authority to use and, if
17 22 appropriate, to make public any final or preliminary
17 23 examination report, any examiner or licensee work
17 24 papers or other documents, or any other information
17 25 discovered or developed during the course of any
17 26 examination in the furtherance of any legal or
17 27 administrative action which the commissioner may, in
17 28 the commissioner's sole discretion, deem appropriate.

17 29 6. For the examination report, all of the
17 30 following apply:

17 31 a. An examination report shall be comprised of
17 32 only facts appearing upon the books, from the
17 33 testimony of its officers or agents or other persons
17 34 examined concerning its affairs, and such conclusions
17 35 and recommendations as the examiners find reasonably
17 36 warranted from the facts.

17 37 b. Not later than sixty days following completion
17 38 of the examination, the examiner in charge shall file
17 39 with the commissioner a verified written report of
17 40 examination under oath. Upon receipt of the verified
17 41 report, the commissioner shall transmit the report to
17 42 the licensee examined, together with a notice that
17 43 shall afford the licensee examined a reasonable
17 44 opportunity of not more than thirty days to make a
17 45 written submission or rebuttal with respect to any
17 46 matter contained in the examination report and which
17 47 shall become part of the report or to request an
17 48 administrative hearing on any matter in dispute as
17 49 provided in chapter 17A.

17 50 c. In the event the commissioner determines that
18 1 regulatory action is appropriate as a result of an
18 2 examination, the commissioner may initiate any
18 3 proceeding or action provided by law.

18 4 7. For the confidentiality of examination
18 5 information, all of the following apply:

18 6 a. The name and individual identification data for
18 7 each owner, purchaser, or insured shall be considered
18 8 private and confidential information and shall not be
18 9 disclosed by the commissioner, unless the disclosure
18 10 is to another regulator or is required by law.

18 11 b. Except as otherwise provided in this chapter,
18 12 an examination report, working papers, recorded
18 13 information, documents or materials, and copies
18 14 produced by, obtained by, or disclosed to the
18 15 commissioner or any other person in the course of an
18 16 examination made under this chapter, or in the course
18 17 of analysis or investigation by the commissioner of
18 18 the financial condition or market conduct of a
18 19 licensee shall be confidential by law and privileged,
18 20 shall not be subject to chapter 22, shall not be
18 21 subject to subpoena, and shall not be subject to
18 22 discovery or admissible in evidence in any private
18 23 civil action. The commissioner may use the
18 24 examination report, working papers, recorded
18 25 information, documents, materials, or other
18 26 information in the furtherance of any administrative
18 27 or legal action brought as part of the commissioner's
18 28 official duties. The licensee being examined may have
18 29 access to all documents used to make the report.

18 30 8. For conflict of interest, all of the following
18 31 apply:

18 32 a. An examiner shall not be appointed by the
18 33 commissioner if the examiner, either directly or
18 34 indirectly, has a conflict of interest or is

18 35 affiliated with the management of or owns a pecuniary
18 36 interest in any person subject to examination under
18 37 this chapter. This section shall not be construed to
18 38 automatically preclude an examiner from being any of
18 39 the following:

18 40 (1) An owner.

18 41 (2) An insured in a life settlement contract or
18 42 life insurance policy.

18 43 (3) A beneficiary in a life insurance policy that
18 44 is proposed for a life settlement contract.

18 45 b. Notwithstanding the requirements of this
18 46 subsection, the commissioner may retain from time to
18 47 time, on an individual basis, one or more qualified
18 48 actuaries, certified public accountants, or other
18 49 similar individuals who are independently practicing
18 50 their professions, even though these persons may from
19 1 time to time be similarly employed or retained by
19 2 persons subject to examination under this chapter.

19 3 9. For immunity from liability, all of the
19 4 following shall apply:

19 5 a. A cause of action shall not arise and liability
19 6 shall not be imposed against the commissioner, the
19 7 commissioner's authorized representative, or any
19 8 examiner appointed by the commissioner for any
19 9 statements made or conduct performed in good faith
19 10 while carrying out the provisions of this chapter.

19 11 b. A cause of action shall not arise, and
19 12 liability shall not be imposed, against any person for
19 13 communicating or delivering information or data to the
19 14 commissioner or the commissioner's authorized
19 15 representative or examiner pursuant to an examination
19 16 made under this chapter, if the communication or
19 17 delivery was performed in good faith and without
19 18 fraudulent intent or the intent to deceive. This
19 19 paragraph does not abrogate or modify in any way any
19 20 common law or statutory privilege or immunity enjoyed
19 21 by any person identified in paragraph "a".

19 22 c. (1) A person identified in paragraph "a" or
19 23 "b" shall be entitled to an award of attorney fees and
19 24 costs if the person is the prevailing party in a civil
19 25 cause of action for libel, slander, or any other
19 26 relevant tort arising out of activities in carrying
19 27 out the provisions of this chapter and the party
19 28 bringing the action was not substantially justified in
19 29 doing so.

19 30 (2) For purposes of subparagraph (1), a proceeding
19 31 is substantially justified if it has a reasonable
19 32 basis in law or fact at the time that it was
19 33 initiated.

19 34 10. The commissioner may investigate a suspected
19 35 fraudulent life settlement act and a person engaged in
19 36 the business of life settlements.

19 37 11. The commission by rule may establish
19 38 reasonable costs for examinations imposed upon a
19 39 person.

19 40 Sec. 8. NEW SECTION. 508G.8 ADVERTISING.

19 41 1. A broker or provider licensed pursuant to this
19 42 chapter may conduct or participate in an advertisement
19 43 within this state. Such advertisement shall comply
19 44 with all statutes or rules adopted by the commissioner
19 45 that are applicable to life insurers or to brokers,
19 46 and providers licensed pursuant to this chapter.

19 47 2. An advertisement shall be accurate, truthful,
19 48 and not misleading in fact or by implication.

19 49 3. A person shall not do any of the following:

19 50 a. Directly or indirectly market, advertise,
20 1 solicit, or otherwise promote the purchase of a life
20 2 insurance policy for the sole purpose of or with an
20 3 emphasis on settling the life insurance policy.

20 4 b. Use the words "free", "no cost", or words of
20 5 similar import in the marketing, advertising,
20 6 soliciting, or otherwise promoting of the purchase of
20 7 a life insurance policy.

20 8 Sec. 9. NEW SECTION. 508G.9 DISCLOSURES TO
20 9 OWNERS.

20 10 1. A provider shall provide in writing, a separate
20 11 disclosure document that is signed by the owner and
20 12 provider, to the owner not later than the date the
20 13 life settlement contract is signed by all parties.

20 14 a. The disclosure document shall include all of
20 15 the following information:

20 16 (1) That possible alternatives to life settlement
20 17 contracts exist including but not limited to
20 18 accelerated benefits offered by the issuer of the life
20 19 insurance policy.

20 20 (2) That some or all of the proceeds of a life
20 21 settlement contract may be taxable and that assistance
20 22 should be sought from a professional tax advisor.

20 23 (3) That the proceeds from a life settlement
20 24 contract could be subject to the claims of creditors.

20 25 (4) That receipt of proceeds from a life
20 26 settlement contract may adversely affect the
20 27 recipient's eligibility for public assistance or other
20 28 government benefits or entitlements and that advice
20 29 should be obtained from the appropriate agencies.

20 30 (5) That the owner has a right to rescind a life
20 31 settlement contract within fifteen days of the date it
20 32 is executed by all parties and the owner has received
20 33 the disclosures required in this section. Rescission,
20 34 if exercised by the owner, is effective only if both
20 35 notice of the rescission is given, and the owner repays
20 36 all proceeds and any premiums, loans, and loan
20 37 interest paid on account of the provider within the
20 38 rescission period. If the insured dies during the
20 39 rescission period, the contract shall be deemed to have
20 40 been rescinded subject to repayment by the owner or
20 41 the owner's estate of all proceeds and any premiums,
20 42 loans, and loan interest to the provider.

20 43 (6) That proceeds will be sent to the owner within
20 44 three business days after the provider has received
20 45 the insurer or group administrator's acknowledgment
20 46 that ownership of the life insurance policy or
20 47 interest in the life insurance certificate has been
20 48 transferred and the beneficiary has been designated in
20 49 accordance with the terms of the life settlement
20 50 contract.

21 1 (7) That entering into a life settlement contract
21 2 may cause other rights or benefits, including
21 3 conversion rights and waiver of premium benefits that
21 4 may exist under the life insurance policy or
21 5 certificate of a group life insurance policy, to be
21 6 forfeited by the owner and that assistance should be
21 7 sought from a professional financial advisor.

21 8 (8) (a) The amount and method of calculating the
21 9 compensation paid or to be paid to the broker, or any
21 10 other person acting for the owner in connection with
21 11 the transaction.

21 12 (b) As used in subparagraph subdivision (a),
21 13 compensation includes anything of value paid or given.

21 14 (9) The date by which the funds will be available
21 15 to the owner and the transmitter of the funds.

21 16 (10) That the commissioner requires delivery of a
21 17 buyer's guide or a similar consumer advisory package
21 18 in the form prescribed by the commissioner to owners
21 19 during the solicitation process.

21 20 (11) The following language:
21 21 "All medical, financial, or personal information
21 22 solicited or obtained by a provider or broker about an
21 23 insured, including the insured's identity or the
21 24 identity of family members, a spouse, or a significant
21 25 other may be disclosed as necessary to effect the life
21 26 settlement contract between the owner and provider.
21 27 If you are asked to provide this information, you will
21 28 be asked to consent to the disclosure. The
21 29 information may be provided to someone who buys the
21 30 policy or provides funds for the purchase. You may be
21 31 asked to renew your permission to share information
21 32 every two years."

21 33 (12) That the commissioner requires providers and
21 34 brokers to print separate signed fraud warnings on
21 35 their applications and on their life settlement
21 36 contracts as follows:
21 37 "Any person who knowingly presents false
21 38 information in an application for a life insurance
21 39 policy or life settlement contract is guilty of a
21 40 crime and may be subject to fines and confinement in
21 41 prison."

21 42 (13) That the insured may be contacted by either
21 43 the provider or broker or its authorized
21 44 representative for the purpose of determining the
21 45 insured's health status or to verify the insured's
21 46 address. This contact is limited to once every three

21 47 months if the insured has a life expectancy of more
21 48 than one year, and no more than once per month if the
21 49 insured has a life expectancy of one year or less.
21 50 (14) The affiliation, if any, between the provider
22 1 and the issuer of the life insurance policy to be
22 2 settled.
22 3 (15) That a broker represents exclusively the
22 4 owner, and not the insurer or the provider or any
22 5 other person, and owes a fiduciary duty to the owner,
22 6 including a duty to act according to the owner's
22 7 instructions and in the best interest of the owner.
22 8 (16) The name, address, and telephone number of
22 9 the provider.
22 10 (17) The name, business address, and telephone
22 11 number of the independent third-party escrow agent,
22 12 and the fact that the owner may inspect or receive
22 13 copies of the relevant escrow or trust agreements or
22 14 documents.
22 15 (18) That a change of ownership could in the
22 16 future limit the insured's ability to purchase future
22 17 insurance on the insured's life because of a limit on
22 18 the amount of coverage insurers will issue on one
22 19 life.
22 20 b. The written disclosure as provided in paragraph
22 21 "a" shall be conspicuously displayed in any life
22 22 settlement contract furnished to the owner by a
22 23 provider including the disclosure of any affiliations
22 24 or contractual arrangements between the provider and
22 25 the broker.
22 26 2. A broker shall provide the owner and the
22 27 provider with at least the following disclosures not
22 28 later than the date the life settlement contract is
22 29 signed by all parties. The disclosures shall be
22 30 conspicuously displayed in the life settlement
22 31 contract or in a separate document signed by the owner
22 32 and provide all of the following information:
22 33 a. The name, business address, and telephone
22 34 number of the broker.
22 35 b. A full, complete, and accurate description of
22 36 all the offers, counteroffers, acceptances, and
22 37 rejections relating to the proposed life settlement
22 38 contract.
22 39 c. A written disclosure of any affiliation or
22 40 contractual arrangement between the broker and any
22 41 person making an offer in connection with the proposed
22 42 life settlement contract.
22 43 d. The name of each broker who receives
22 44 compensation and the amount of compensation received
22 45 by that broker, which compensation includes anything
22 46 of value paid or given to the broker in connection
22 47 with the life settlement contract.
22 48 e. (1) A complete reconciliation of the gross
22 49 offer or bid by the provider to the net amount of
22 50 proceeds or value to be received by the owner.
23 1 (2) For the purpose of subparagraph (1), "gross
23 2 offer" or "bid" means the total amount or value
23 3 offered by the provider for the purchase of one or
23 4 more life insurance policies, inclusive of commissions
23 5 and fees.
23 6 f. The failure to provide the disclosures or
23 7 rights described in this section is deemed an unfair
23 8 trade practice pursuant to section 508G.17.
23 9 Sec. 10. NEW SECTION. 508G.10 DISCLOSURE TO
23 10 INSURER.
23 11 Without limiting the ability of an insurer from
23 12 assessing the insurability of a policy applicant and
23 13 determining whether or not to issue the policy, and in
23 14 addition to other questions an insurer may lawfully
23 15 pose to a life insurance applicant, insurers may
23 16 inquire in the application for insurance whether the
23 17 proposed owner intends to pay premiums with the
23 18 assistance of financing from a lender that will use
23 19 the policy as collateral to support the financing.
23 20 1. If, as described in the definition of life
23 21 settlement contract in section 508G.2, the loan
23 22 provides funds which can be used for a purpose other
23 23 than paying for the premiums, costs, and expenses
23 24 associated with obtaining and maintaining the life
23 25 insurance policy and loan, the application shall be
23 26 rejected as a violation of the prohibited practices in
23 27 section 508G.13.

23 28 2. If the financing does not violate section
23 29 508G.13 in the manner provided in subsection 1, the
23 30 insurer may do any of the following:

23 31 a. Make a disclosure, including but not limited to
23 32 such as the following, to the applicant and the
23 33 insured, either on the application or an amendment to
23 34 the application to be completed no later than the
23 35 delivery of the policy:

23 36 "If you have entered into a loan arrangement where
23 37 the life insurance policy is used as collateral, and
23 38 the life insurance policy does change ownership at
23 39 some point in the future in satisfaction of the loan,
23 40 the following may be true:

23 41 A change of ownership could lead to a stranger
23 42 owning an interest in the insured's life.

23 43 A change of ownership could in the future limit
23 44 your ability to purchase future insurance on the
23 45 insured's life because of a limit on the amount of
23 46 coverage insurers will issue on one life.

23 47 Should there be a change of ownership and you wish
23 48 to obtain more insurance coverage on the insured's
23 49 life in the future, the insured's higher issue age, a
23 50 change in health status, or other factors may reduce
24 1 the ability to obtain coverage or may result in
24 2 significantly higher premiums.

24 3 You should consult a professional advisor, since a
24 4 change in ownership in satisfaction of the loan may
24 5 result in tax consequences to the owner, depending on
24 6 the structure of the loan."

24 7 b. Require certifications, such as the following,
24 8 from the applicant or the insured:

24 9 "I have not entered into any agreement or
24 10 arrangement providing for the future sale of this life
24 11 insurance policy.

24 12 My loan arrangement for this life insurance policy
24 13 provides funds sufficient to pay for some or all of
24 14 the premiums, costs, and expenses associated with
24 15 obtaining and maintaining my life insurance policy,
24 16 but I have not entered into any agreement by which I
24 17 am to receive consideration in exchange for procuring
24 18 this life insurance policy.

24 19 The borrower has an insurable interest in the
24 20 insured."

24 21 Sec. 11. NEW SECTION. 508G.11 GENERAL RULES.

24 22 1. A provider entering into a life settlement
24 23 contract with an owner of a life insurance policy,
24 24 where the insured is terminally ill or chronically
24 25 ill, shall first obtain all of the following:

24 26 a. If the owner is the insured, a written
24 27 statement from a licensed attending physician that the
24 28 owner is of sound mind and under no constraint or
24 29 undue influence to enter into a life settlement
24 30 contract.

24 31 b. A document in which the insured consents to the
24 32 release of the owner's medical records to a provider,
24 33 broker, or insurance producer and, if the life
24 34 insurance policy was issued less than two years from
24 35 the date of application for a life settlement
24 36 contract, to the insurance company that issued the
24 37 policy.

24 38 2. An insurer shall respond to a request for
24 39 verification of coverage submitted by a provider,
24 40 broker, or life insurance producer not later than
24 41 thirty calendar days of the date the request is
24 42 received. The request for verification of coverage
24 43 must be made on a form approved by the commissioner.
24 44 The insurer shall complete and issue the verification
24 45 of coverage or indicate in which respects it is unable
24 46 to respond. In its response, the insurer shall
24 47 indicate whether, based on the medical evidence and
24 48 documents provided, the insurer intends to pursue an
24 49 investigation at this time regarding the validity of
24 50 the life insurance policy.

25 1 3. Before or at the time of the execution of the
25 2 life settlement contract, the provider shall obtain a
25 3 witnessed document in which the owner consents to the
25 4 life settlement contract, represents that the owner
25 5 has a full and complete understanding of the life
25 6 settlement contract, that the owner has a full and
25 7 complete understanding of the benefits of the life
25 8 insurance policy, acknowledges that the owner is

25 9 entering into the life settlement contract freely and
25 10 voluntarily, and, for persons with a terminal or
25 11 chronic illness or condition, acknowledges that the
25 12 insured has a terminal or chronic illness and that the
25 13 terminal or chronic illness or condition was diagnosed
25 14 after the life insurance policy was issued.

25 15 4. The insurer shall not unreasonably delay
25 16 effecting change of ownership or beneficiary with any
25 17 life settlement contract lawfully entered into in this
25 18 state or with a resident of this state.

25 19 5. If a broker or life insurance producer performs
25 20 any activities required of the provider, the provider
25 21 is deemed to have fulfilled the requirements of this
25 22 section.

25 23 6. If a broker performs verification of coverage
25 24 activities required of the provider, the provider is
25 25 deemed to have fulfilled the requirements of section
25 26 508G.9, subsection 1.

25 27 7. Within twenty days after an owner executes the
25 28 life settlement contract, a provider shall give
25 29 written notice to the insurer that issued the life
25 30 insurance policy that the policy has become subject to
25 31 a life settlement contract. The notice shall be
25 32 accompanied by the documents required by section
25 33 508G.10, subsection 1, paragraph "b".

25 34 8. All medical information solicited or obtained
25 35 by any licensee shall be subject to the applicable
25 36 provision of state law relating to confidentiality of
25 37 medical information, if not otherwise provided in this
25 38 chapter.

25 39 9. A life settlement contract entered into in this
25 40 state shall provide that the owner may rescind the
25 41 contract on or before fifteen days after the date it
25 42 is executed by all parties. Rescission, if exercised by
25 43 the owner, is effective only if both notice of the
25 44 rescission is given, and the owner repays all proceeds
25 45 and any premiums, loans, and loan interest paid on
25 46 account of the provider within the rescission period.
25 47 If the insured dies during the rescission period, the
25 48 contract shall be deemed to have been rescinded
25 49 subject to repayment by the owner or the owner's
25 50 estate of all proceeds and any premiums, loans, and
26 1 loan interest to the provider.

26 2 10. Within three business days after receipt from
26 3 the owner of documents to effect the transfer of the
26 4 insurance policy, the provider shall pay the proceeds
26 5 of the settlement to a trust or escrow account managed
26 6 by a trustee or escrow agent in a state or federally
26 7 chartered financial institution pending acknowledgment
26 8 of the transfer by the issuer of the policy. The
26 9 trustee or escrow agent shall be required to transfer
26 10 the proceeds due to the owner within three business
26 11 days of acknowledgment of the transfer from the
26 12 insurer.

26 13 11. A failure to tender life settlement contract
26 14 proceeds to the owner by the date disclosed to the
26 15 owner renders the contract voidable by the owner for
26 16 lack of consideration until the time the proceeds are
26 17 tendered to and accepted by the owner. A failure to
26 18 give written notice of the right of rescission shall
26 19 toll the right of rescission until thirty days after the
26 20 written notice of the right of rescission has been
26 21 given.

26 22 12. Any fee paid by a provider, party, individual,
26 23 or an owner to a broker in exchange for services
26 24 provided to the owner pertaining to a life settlement
26 25 contract shall be computed as a percentage of the
26 26 offer obtained, not the face value of the life
26 27 insurance policy. This section shall not be construed
26 28 as prohibiting a broker from reducing the broker's fee
26 29 below this percentage if the broker so chooses.

26 30 13. A broker shall disclose to the owner anything
26 31 of value paid or given to the broker, which relates to
26 32 a life settlement contract.

26 33 14. A person shall not at any time prior to, or at
26 34 the time of, the application for, or issuance of, a
26 35 life insurance policy, or during a two-year period
26 36 commencing with the date of issuance of the life
26 37 insurance policy, enter into a life settlement
26 38 contract regardless of the date the compensation is to
26 39 be provided and regardless of the date the assignment,

26 40 transfer, sale, devise, bequest, or surrender of the
26 41 policy is to occur. This prohibition shall not apply
26 42 if the owner certifies to the provider that any of the
26 43 following applies:

26 44 a. The life insurance policy was issued upon the
26 45 owner's exercise of conversion rights arising out of a
26 46 group or individual life insurance policy, provided
26 47 the total of the time covered under the conversion
26 48 policy plus the time covered under the prior life
26 49 insurance policy is at least twenty-four months. The
26 50 time covered under a group life insurance policy must
27 1 be calculated without regard to a change in insurers,
27 2 provided the coverage has been continuous and under
27 3 the same group sponsorship.

27 4 b. The owner submits independent evidence to the
27 5 provider that one or more of the following conditions
27 6 have been met within the two-year period:

27 7 (1) The owner or insured is terminally ill or
27 8 chronically ill.

27 9 (2) The owner or insured disposes of the owner's
27 10 or insured's ownership interests in a closely held
27 11 corporation, pursuant to the terms of a buyout or
27 12 other similar agreement in effect at the time the life
27 13 insurance policy was initially issued.

27 14 (3) The owner's spouse dies.

27 15 (4) The owner divorces the owner's spouse.

27 16 (5) The owner retires from full-time employment.

27 17 (6) The owner becomes physically or mentally

27 18 disabled and a physician determines that the
27 19 disability prevents the owner from maintaining
27 20 full-time employment.

27 21 (7) A final order, judgment, or decree is entered
27 22 by a court of competent jurisdiction, on the
27 23 application of a creditor of the owner, adjudicating
27 24 the owner bankrupt or insolvent, or approving a
27 25 petition seeking reorganization of the owner or
27 26 appointing a receiver, trustee, or liquidator to all
27 27 or a substantial part of the owner's assets.

27 28 c. Copies of the independent evidence required by
27 29 subsection 14, paragraph "b", shall be submitted to
27 30 the insurer when the provider submits a request to the
27 31 insurer for verification of coverage. The copies
27 32 shall be accompanied by a letter of attestation from
27 33 the provider that the copies are true and correct
27 34 copies of the documents received by the provider.
27 35 This section does not prohibit an insurer from
27 36 exercising its right to contest the validity of any
27 37 life insurance policy.

27 38 d. If the provider submits to the insurer a copy
27 39 of independent evidence provided for in paragraph "b",
27 40 subparagraph (1), when the provider submits a request
27 41 to the insurer to effect the transfer of the policy to
27 42 the provider, the copy is deemed to establish that the
27 43 life settlement contract satisfies the requirements of
27 44 this section.

27 45 Sec. 12. NEW SECTION. 508G.12 AUTHORITY TO ADOPT
27 46 RULES == CONFLICT OF LAWS.

27 47 1. The commissioner may adopt rules implementing
27 48 this chapter and regulating the activities and
27 49 relationships of providers, brokers, insurers, and
27 50 their agents, pursuant to chapter 17A.

28 1 2. For conflict of laws, all of the following
28 2 shall apply:

28 3 a. If there is more than one owner on a single
28 4 policy, and the owners are residents of different
28 5 states, the life settlement contract shall be governed
28 6 by the law of the state in which the owner having the
28 7 largest percentage ownership resides or, if the owners
28 8 hold equal ownership, the state of residence of one
28 9 owner agreed upon in writing by all of the owners.
28 10 The law of the state of the insured shall govern in
28 11 the event that equal owners fail to agree in writing
28 12 upon a state of residence for jurisdictional purposes.

28 13 b. A provider from this state who enters into a
28 14 life settlement contract with an owner who is a
28 15 resident of another state that has enacted statutes or
28 16 adopted regulations governing life settlement
28 17 contracts shall be governed in the effectuation of
28 18 that life settlement contract by the statutes and
28 19 regulations of the owner's state of residence. If the
28 20 state in which the owner is a resident has not enacted

28 21 statutes or regulations governing life settlement
28 22 contracts, the provider shall give the owner notice
28 23 that neither state regulates the transaction into
28 24 which the owner is entering. For transactions in
28 25 those states, however, the provider shall maintain all
28 26 records required as if the transactions were executed
28 27 in the state of residence. The forms used in those
28 28 states need not be approved by the commissioner.

28 29 c. If there is a conflict in the laws that apply
28 30 to an owner and a purchaser in any individual
28 31 transaction, the laws of the state that apply to the
28 32 owner shall take precedence and the provider shall
28 33 comply with those laws.

28 34 Sec. 13. NEW SECTION. 508G.13 PROHIBITED
28 35 PRACTICES.

28 36 1. A person shall not do any of the following:

28 37 a. Enter into a life settlement contract if the
28 38 person knows or reasonably should have known that the
28 39 life insurance policy was obtained by means of a
28 40 false, deceptive, or misleading application for such
28 41 life insurance policy.

28 42 b. Engage in any transaction, practice, or course
28 43 of business if such person knows or reasonably should
28 44 have known that the intent was to avoid the notice
28 45 requirements of this chapter.

28 46 c. Engage in any fraudulent act or practice in
28 47 connection with any transaction relating to any
28 48 settlement involving an owner who is a resident of
28 49 this state.

28 50 d. Issue, solicit, market, or otherwise promote
29 1 the purchase of a life insurance policy for the
29 2 purpose of or with an emphasis on settling the life
29 3 insurance policy.

29 4 e. Enter into a premium finance agreement with any
29 5 person or agency, or any person affiliated with such
29 6 person or agency, pursuant to which such person or
29 7 agency shall receive any proceeds, fees, or other
29 8 consideration, directly or indirectly, from the life
29 9 insurance policy or owner of the life insurance policy
29 10 or any other person with respect to the premium
29 11 finance agreement or any life settlement contract or
29 12 other transaction related to such life insurance
29 13 policy that are in addition to the amounts required to
29 14 pay the principal, interest, and service charges
29 15 related to life insurance policy premiums pursuant to
29 16 the premium finance agreement or subsequent sale of
29 17 such agreement. However, any payments, charges, fees,
29 18 or other amounts in addition to the amounts required
29 19 to pay the principal, interest, and service charges
29 20 related to life insurance policy premiums paid under
29 21 the premium finance agreement shall be remitted to the
29 22 original owner of the life insurance policy or to the
29 23 original owner's estate if the original owner is not
29 24 living at the time of the determination of the
29 25 overpayment.

29 26 f. With respect to any life settlement contract or
29 27 life insurance policy and a broker, knowingly solicit
29 28 an offer from, effectuate a life settlement contract
29 29 with, or make a sale to any provider, financing
29 30 entity, or related provider trust that is controlling,
29 31 controlled by, or under common control with such
29 32 broker.

29 33 g. With respect to any life settlement contract or
29 34 life insurance policy and a provider, knowingly enter
29 35 into a life settlement contract with an owner, if, in
29 36 connection with such life settlement contract,
29 37 anything of value will be paid to a broker that is
29 38 controlling, controlled by, or under common control
29 39 with such provider or the financing entity or related
29 40 provider trust that is involved in such life
29 41 settlement contract.

29 42 h. With respect to a provider, enter into a life
29 43 settlement contract unless the life settlement
29 44 promotional, advertising, and marketing materials, as
29 45 may be adopted by rule, have been filed with the
29 46 commissioner. In no event shall any marketing
29 47 materials expressly reference that the insurance is
29 48 free for any period of time. The inclusion of any
29 49 reference in the marketing materials that would cause
29 50 an owner to reasonably believe that the insurance is
30 1 free for any period of time shall be considered a

30 2 violation of this chapter.
30 3 i. With respect to any life insurance producer,
30 4 insurer, broker, or provider, make any statement or
30 5 representation to the applicant or policyholder in
30 6 connection with the sale or financing of a life
30 7 insurance policy to the effect that the insurance is
30 8 free or without cost to the policyholder for any
30 9 period of time unless provided in the policy.
30 10 2. A violation of this section shall be deemed a
30 11 fraudulent life settlement act.
30 12 Sec. 14. NEW SECTION. 508G.14 FRAUD PREVENTION
30 13 AND CONTROL.
30 14 1. This subsection applies to a fraudulent life
30 15 settlement act, interference, and convicted felons as
30 16 follows:
30 17 a. A person shall not commit a fraudulent life
30 18 settlement act.
30 19 b. A person shall not knowingly and intentionally
30 20 interfere with the enforcement of the provisions of
30 21 this chapter or an investigation of suspected or
30 22 actual violations of this chapter.
30 23 c. A person in the business of life settlements
30 24 shall not knowingly or intentionally permit any person
30 25 convicted of a felony involving dishonesty or breach
30 26 of trust to participate in the business of life
30 27 settlements.
30 28 2. This subsection applies to required fraud
30 29 warnings as follows:
30 30 a. A life settlement contract and an application
30 31 for a life settlement contract, regardless of the form
30 32 of transmission, shall contain the following statement
30 33 or a substantially similar statement:
30 34 "Any person who knowingly presents false
30 35 information in an application for a life insurance
30 36 policy or life settlement contract is guilty of a
30 37 crime and may be subject to fines and confinement in
30 38 prison."
30 39 b. The lack of a statement as required in
30 40 paragraph "a" does not constitute a defense in any
30 41 prosecution for a fraudulent life settlement act.
30 42 3. This section applies to the mandatory reporting
30 43 of fraudulent life settlement acts as follows:
30 44 a. Any person engaged in the business of life
30 45 settlements having knowledge or a reasonable belief
30 46 that a fraudulent life settlement act is being, will
30 47 be, or has been committed shall provide to the
30 48 commissioner the information required by, and in a
30 49 manner prescribed by, the commissioner.
30 50 b. Any other person having knowledge or a
31 1 reasonable belief that a fraudulent life settlement
31 2 act is being, will be, or has been committed may
31 3 provide to the commissioner the information required
31 4 by, and in a manner prescribed by, the commissioner.
31 5 4. This subsection applies to immunity from
31 6 liability as follows:
31 7 a. Civil liability shall not be imposed on and a
31 8 cause of action shall not arise from a person's
31 9 furnishing information concerning suspected,
31 10 anticipated, or a completed fraudulent life settlement
31 11 act, if the information is provided to or received
31 12 from any of the following:
31 13 (1) The commissioner or the commissioner's
31 14 employees, agents, or representatives.
31 15 (2) Federal, state, or local law enforcement or
31 16 regulatory officials or their employees, agents, or
31 17 representatives.
31 18 (3) A person involved in the prevention and
31 19 detection of fraudulent life settlement acts or that
31 20 person's agents, employees, or representatives.
31 21 (4) Any regulatory body or its employees, agents,
31 22 or representatives, overseeing life insurance, life
31 23 settlements, securities, or investment fraud.
31 24 (5) The life insurer that issued the life
31 25 insurance policy covering the life of the insured.
31 26 (6) The licensee and any agents, employees, or
31 27 representatives.
31 28 b. Paragraph "a" shall not apply to a statement
31 29 made with actual malice. In an action brought against
31 30 a person for filing a report or furnishing other
31 31 information concerning a fraudulent life settlement
31 32 act, the party bringing the action shall plead

31 33 specifically any allegation that paragraph "a" does
31 34 not apply because the person filing the report or
31 35 furnishing the information did so with actual malice.
31 36 c. (1) A person identified in paragraph "a" shall
31 37 be entitled to an award of attorney fees and costs if
31 38 the person is the prevailing party in a civil cause of
31 39 action for libel, slander, or any other relevant tort
31 40 arising out of activities in carrying out the
31 41 provisions of this chapter and the party bringing the
31 42 action was not substantially justified in doing so.
31 43 (2) For purposes of this paragraph "c", a
31 44 proceeding is substantially justified if it had a
31 45 reasonable basis in law or fact at the time that it
31 46 was initiated.
31 47 d. This section does not abrogate or modify common
31 48 law or statutory privileges or immunities enjoyed by a
31 49 person described in paragraph "a".
31 50 5. This subsection applies to confidentiality as
32 1 follows:
32 2 a. The documents and evidence provided pursuant to
32 3 subsection 4 or obtained by the commissioner in an
32 4 investigation of a suspected or actual fraudulent life
32 5 settlement act shall be privileged and confidential
32 6 and shall not be subject to chapter 22, and shall not
32 7 be subject to discovery or subpoena in a civil or
32 8 criminal action.
32 9 b. Paragraph "a" does not prohibit a release by
32 10 the commissioner of documents and evidence obtained in
32 11 an investigation of a suspected or actual fraudulent
32 12 life settlement act to any of the following:
32 13 (1) In administrative or judicial proceedings to
32 14 enforce laws administered by the commissioner.
32 15 (2) To federal, state, or local law enforcement or
32 16 regulatory agencies, to an organization established
32 17 for the purpose of detecting and preventing fraudulent
32 18 life settlement acts or to the national association of
32 19 insurance commissioners.
32 20 (3) At the discretion of the commissioner, to a
32 21 person in the business of life settlements that is
32 22 aggrieved by a fraudulent life settlement act.
32 23 c. Release of documents and evidence under
32 24 paragraph "b" does not abrogate or modify the
32 25 privilege granted in paragraph "a".
32 26 6. This chapter shall not do any of the following:
32 27 a. Preempt the authority or relieve the duty of
32 28 other law enforcement or regulatory agencies to
32 29 investigate, examine, or prosecute suspected
32 30 violations of law.
32 31 b. Preempt, supersede, or limit any provision of
32 32 any state securities law or any rule, order, or notice
32 33 issued under this chapter.
32 34 c. Prevent or prohibit a person from voluntarily
32 35 disclosing information concerning life settlement
32 36 fraud to a law enforcement or regulatory agency other
32 37 than the commissioner.
32 38 d. Limit the powers granted elsewhere by the laws
32 39 of this state to the commissioner or the insurance
32 40 division, or an insurance fraud unit, to investigate
32 41 and examine possible violations of law and to take
32 42 appropriate action against wrongdoers.
32 43 7. This subsection applies to life settlement
32 44 antifraud initiatives as follows:
32 45 a. A provider or broker shall have in place
32 46 antifraud initiatives reasonably calculated to detect,
32 47 prosecute, and prevent a fraudulent life settlement
32 48 act. At the discretion of the commissioner, the
32 49 commissioner may order, or a licensee may request and
32 50 the commissioner may grant, such modifications of the
33 1 following required initiatives as necessary to ensure
33 2 an effective antifraud program. The modifications may
33 3 be more or less restrictive than the required
33 4 initiatives so long as the modifications may
33 5 reasonably be expected to accomplish the purpose of
33 6 this section. The antifraud initiatives shall include
33 7 all of the following:
33 8 (1) Fraud investigators, who may be provider or
33 9 broker employees or independent contractors.
33 10 (2) An antifraud plan, which shall be submitted to
33 11 the commissioner. The antifraud plan shall include
33 12 but not be limited to any of the following:
33 13 (a) A description of the procedures for detecting

33 14 and investigating possible fraudulent life settlement
33 15 acts and procedures for resolving material
33 16 inconsistencies between medical records and insurance
33 17 applications.

33 18 (b) A description of the procedures for reporting
33 19 possible fraudulent life settlement acts to the
33 20 commissioner.

33 21 (c) A description of the plan for antifraud
33 22 education and training of underwriters and other
33 23 personnel.

33 24 (d) A description or chart outlining the
33 25 organizational arrangement of the antifraud personnel
33 26 who are responsible for the investigation and
33 27 reporting of possible fraudulent life settlement acts
33 28 and investigating unresolved material inconsistencies
33 29 between medical records and insurance applications.

33 30 b. Antifraud plans submitted to the commissioner
33 31 shall be privileged and confidential, shall not be
33 32 subject to chapter 22, and shall not be subject to
33 33 discovery or subpoena in a civil or criminal action.

33 34 Sec. 15. NEW SECTION. 508G.15 INJUNCTIONS ==
33 35 CIVIL REMEDIES == CEASE AND DESIST.

33 36 1. In addition to the penalties and other
33 37 enforcement provisions of this chapter, if any person
33 38 violates this chapter or any rule implementing this
33 39 chapter, the commissioner may seek an injunction in a
33 40 court of competent jurisdiction in the county where
33 41 the person resides or has a principal place of
33 42 business and may apply for temporary and permanent
33 43 orders that the commissioner determines necessary to
33 44 restrain the person from further committing the
33 45 violation.

33 46 2. A person damaged by an act of another person in
33 47 violation of this chapter or any rule implementing or
33 48 administering this chapter, may bring a civil action
33 49 for damages against the person committing the
33 50 violation in a court of competent jurisdiction.

34 1 3. The commissioner may issue a cease and desist
34 2 order upon a person who violates any provision of this
34 3 chapter, any rule adopted or order issued by the
34 4 commissioner, or any written agreement entered into
34 5 with the commissioner.

34 6 4. If the commissioner finds that such an action
34 7 presents an immediate danger to the public and
34 8 requires an immediate final order, the commissioner
34 9 may issue an emergency cease and desist order reciting
34 10 with particularity the facts underlying such findings.
34 11 The emergency cease and desist order is effective
34 12 immediately upon service of a copy of the order on the
34 13 respondent and remains effective for ninety days. If
34 14 the commissioner begins nonemergency cease and desist
34 15 proceedings under subsection 1, the emergency cease
34 16 and desist order remains effective, absent an order by
34 17 a court of competent jurisdiction pursuant to chapter
34 18 17A. In the event of a willful violation of this
34 19 chapter, the court may award statutory damages in
34 20 addition to actual damages in an additional amount up
34 21 to three times the actual damage award. The
34 22 provisions of this chapter shall not be waived by
34 23 agreement. A choice of law provision shall not be
34 24 utilized to prevent the application of this chapter to
34 25 any life settlement in which a party to the life
34 26 settlement is a resident of this state.

34 27 Sec. 16. NEW SECTION. 508G.16 PENALTIES.

34 28 1. It is a violation of this chapter for any
34 29 person, provider, broker, or any other party related
34 30 to the business of life settlements, to commit a
34 31 fraudulent life settlement act.

34 32 2. For criminal liability purposes, a person that
34 33 commits a fraudulent life settlement act is guilty of
34 34 a class "D" felony.

34 35 3. In addition to the penalty provided in
34 36 subsection 2, the commissioner may establish, assess,
34 37 and collect a civil penalty not exceeding ten thousand
34 38 dollars for each violation of this chapter, including
34 39 a person or the person's employee licensed pursuant to
34 40 this chapter, who commits a fraudulent life settlement
34 41 act or violates any other provision of this chapter
34 42 and penalties shall be deposited into the general fund
34 43 of the state.

34 44 4. The license of a person licensed under this

34 45 chapter that commits a fraudulent life settlement act
34 46 shall be revoked for a period of five years.
34 47 Sec. 17. NEW SECTION. 508G.17 UNFAIR TRADE
34 48 PRACTICES.
34 49 A violation of sections 508G.3 through 508G.16 by a
34 50 provider, broker, or insurer shall be considered an
35 1 unfair trade practice pursuant to chapter 507B.

35 2 DIVISION II

35 3 COORDINATING CHANGES

35 4 Sec. 18. Section 502.102, subsection 17, paragraph
35 5 d, Code 2007, is amended to read as follows:

35 6 d. With respect to a viatical life settlement
35 7 ~~investment~~ contract as defined in section 508G.2,
35 8 "issuer" means a person involved in creating,
35 9 transferring, or selling to an investor any interest
35 10 in such a contract, including but not limited to
35 11 fractional or pooled interests, but does not include
35 12 an agent or a broker-dealer.

35 13 Sec. 19. Section 502.102, subsection 28, paragraph
35 14 f, Code 2007, is amended to read as follows:

35 15 f. It includes a viatical life settlement
35 16 ~~investment~~ contract as defined in section 508G.2.

35 17 Sec. 20. Section 502.102, subsection 31A, Code
35 18 2007, is amended by striking the subsection.

35 19 Sec. 21. Section 502.201, subsection 9E, Code
35 20 2007, is amended to read as follows:

35 21 9E. VIACICAL LIFE SETTLEMENT CONTRACTS. A
35 22 ~~viatical life~~ settlement contract as defined in
35 23 section 508.102, or fractional or pooled interest in
35 24 such contract, provided any of the following
35 25 conditions are satisfied:

35 26 a. The assignment, transfer, sale, devise, or
35 27 bequest of a death benefit of a life insurance policy
35 28 or contract is made by the ~~viator to~~ owner of a life
35 29 ~~insurance policy to~~ an insurance company as provided
35 30 under ~~Title XIII, subtitle 1~~ chapter 508G.

35 31 b. The assignment, transfer, sale, devise, or
35 32 bequest of a life insurance policy or contract, for
35 33 any value less than the expected death benefit, is
35 34 made by the ~~viator~~ owner of the life insurance policy
35 35 to a family member or other person who enters into no
35 36 more than one such agreement in a calendar year.

35 37 c. A life insurance policy or contract is assigned
35 38 to a bank, savings bank, savings and loan association,
35 39 credit union, or other licensed lending institution as
35 40 collateral for a loan.

35 41 d. Accelerated benefits are exercised as provided
35 42 in the life insurance policy or contract and
35 43 consistent with applicable law.

35 44 e. The assignment, transfer, sale, devise, or
35 45 bequest of the death benefit or ownership of a life
35 46 insurance policy or contract made by the policyholder
35 47 or contract owner to a ~~viatical settlement~~ provider
35 48 pursuant to a life settlement contract, if the
35 49 ~~viatical life settlement transaction contract~~ complies
35 50 with chapter ~~508E~~ 508G, including rules adopted
36 1 pursuant to that chapter.

36 2 Sec. 22. Chapter 508E, Code 2007, is repealed.

36 3 DIVISION III

36 4 TRANSITIONAL PROVISIONS

36 5 Sec. 23. TRANSACTIONS OF BUSINESS.

36 6 1. A provider lawfully transacting business in
36 7 this state prior to July 1, 2009, may continue to do
36 8 so pending approval or disapproval of that person's
36 9 application for a license as long as the application
36 10 is filed with the commissioner not later than thirty
36 11 days after publication by the commissioner of an
36 12 application form and instructions for licensure of
36 13 providers. If the publication of the application form
36 14 and instructions is made prior to July 1, 2009, the
36 15 filing of the application shall not be later than
36 16 thirty days after July 1, 2009. During the time that
36 17 such an application is pending with the commissioner,
36 18 the applicant may use any form of life settlement
36 19 contract that has been filed with the commissioner
36 20 pending approval of the application, provided that
36 21 such form is otherwise in compliance with the
36 22 provisions of this Act. Any person transacting
36 23 business in this state under this provision shall be
36 24 obligated to comply with all other requirements of
36 25 this Act.

36 26 2. A person who has lawfully negotiated life
36 27 settlement contracts between any owner residing in
36 28 this state and one or more providers for at least one
36 29 year immediately prior to July 1, 2009, may continue
36 30 to do so pending approval or disapproval of that
36 31 person's application for a license as long as the
36 32 application is filed with the commissioner not later
36 33 than thirty days after publication by the commissioner
36 34 of an application form and instructions for licensure
36 35 of brokers. If the publication of the application
36 36 form and instructions is prior to July 1, 2009, the
36 37 filing of the application shall not be later than
36 38 thirty days after July 1, 2009. Any person
36 39 transacting business in this state under this
36 40 provision shall be obligated to comply with all other
36 41 requirements of this Act.

36 42 Sec. 24. EFFECTIVE DATE. This Act takes effect
36 43 July 1, 2009.>

36 44 #2. Title page, line 1, by striking the words
36 45 <viatical settlements> and inserting the following:
36 46 <life settlement arrangements>.

36 47 #3. Title page, line 2, by inserting after the
36 48 word <penalties> the following: <and an effective
36 49 date>.

36 50

37 1

37 2

37 3 JEFF ANGELO

37 4 SF 2392.302 82

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